IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 16TH AUGUST 2007 / 25TH SRAVANA 1929

Bail Appl..No. 5104 of 2007()

CC.612/2003 of J.M.F.C.-I, PERINTHALMANNA

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PETITIONER/2ND ACCUSED

MAJEED, S/O SAIDALI,
PUDUVACHOLAKKALATHIL, P.O.VILAYOOR, PALAKKAD.

BY ADV. SRI.M.SHAJU PURUSHOTHAMAN
SRI.K.S.RAJESH

RESPONDENTS: COMPLAINANT

STATE OF KERALA,
REP.BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM,
REPRESENTING THE S.I.OF POLICE, PERINTHALMANNA.

BY P.P. SRI.S.U. NAZAR.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 16/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No. 5104 OF 2007

Dated this the 16th day of August, 2007

ORDER

The petitioner faces indictment in a prosecution under Sec.420 read with Sec.34 of the IPC. He is the 2nd accused. Final report has been filed. Cognizance has been taken. The petitioner was not available. The case against him was split up. It is transferred to the list of Long Pending Cases. Coercive processes issued by the learned Magistrate are chasing the petitioner.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. His failure/omission to appear before the learned Magistrate was not wilful; but was due to reasons beyond his control. The petitioner, in these circumstances, wants to surrender before the learned Magistrate and seek regular bail. The petitioner apprehends that his application for regular bail may not be considered by

the learned Magistrate on merits in accordance with law and expeditiously. It is, in these circumstances, that the petitioner has come to this Court for a direction to the learned Magistrate to release him on bail when he appears before the learned Magistrate.

2. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the petitioner's application for regular bail on merits in accordance with law and expeditiously. No special or specific directions appear to be necessary. Every court must do the same. Sufficient general directions on this aspect have already been issued in the decision reported in **Alice George v. Deputy Superintendent of Police** (2003 (1) KLT 339).

3. In the result, this bail application is dismissed; but with the observation that if the petitioner surrenders before the learned Magistrate and seeks bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned

Magistrate must proceed to pass appropriate orders on merits and expeditiously – on the date of surrender itself.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge